

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CONTEL CELLULAR OF	)	
KENTUCKY, INC. FOR ISSUANCE OF A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	
NECESSITY TO CONSTRUCT AN ADDITIONAL	)	CASE NO. 95-402
CELL FACILITY IN THE LOUISVILLE KENTUCKY	)	
METROPOLITAN STATISTICAL AREA	)	
(LOUISVILLE DOWNS CELL FACILITY)	)	

O R D E R

On September 13, 1995, Contel Cellular of Kentucky, Inc. ("Contel Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower in the Louisville Metropolitan Statistical Area ("Louisville MSA"). The proposed cell site consists of a monopole not to exceed 165 feet in height, with attached antennas, to be located at 1421 Bunton Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 11' 44.25" by West Longitude 85° 42' 20.86".

Contel Cellular has provided information regarding the structure of the monopole, safety measures, and antenna design criteria for the proposed cell site. Based upon the application, the design of the monopole and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code, with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the proposed cell site's construction is exempt from local zoning ordinances. However, Contel Cellular has notified the Louisville and Jefferson County Planning Commission of the proposed construction. Contel Cellular states it has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed cell site. Although Contel Cellular asserts that the FAA determined the proposed structure would not exceed obstruction standards, Exhibit D to the application reflects otherwise. Additionally, Exhibit E to the application is purported to be the KAZC application, but instead appears to be the same document as Exhibit D. The Commission finds that proper evidence should be filed to verify that both the KAZC and FAA applications have been approved prior to beginning the construction authorized herein.

Contel Cellular has filed notices verifying that each person who owns property or resides within 500 feet of the proposed cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. In addition, Contel Cellular has posted notice of the proposed construction in a visible location for at least two weeks after filing its application. To date, no comments or requests for intervention have been filed with the Commission.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon

complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Contel Cellular should notify the Commission if it does not use this monopole to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused monopole, which should be observed by Contel Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Contel Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in the Louisville MSA under its currently approved tariff.

IT IS THEREFORE ORDERED that:

1. Contel Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a monopole not to exceed 165 feet in height, with attached antennas, to be located at 1421 Bunton Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 11' 44.25" by West Longitude 85° 42' 20.86".

2. Contel Cellular shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions and shall

not begin construction until these decisions approving the monopole have been received by it.

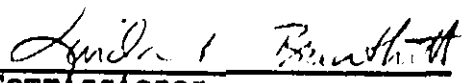
3. Contel Cellular shall immediately notify the Commission in writing, if, after the monopole is built and utility service is commenced, the monopole is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 27th day of October, 1995.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director